

Exhibit D

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BARBARA BROUGHEL

Plaintiff,

v.

THE BATTERY CONSERVANCY,
AND WARRIE PRICE

Defendants.

Index No. 07CV7755
Judge Daniels

SUPPLEMENT TO
PLAINTIFF'S INITIAL
DISCLOSURE UNDER
FED. R. OF CIV. P. 26(a)(1)

Plaintiff Barbara Broughel ("Broughel") supplements her Federal Rule of Civil Procedure 26(a) Disclosure on damages (C) as follows:

1. Injury to Reputation.

(A) First, 8,000,000 people a year pass through Battery Park, and over a period of several decades, Broughel is therefore being barred from a potential audience of tens of millions of people for this work. This represents a very significant loss of exposure with regard to her name and reputation.

(B) The project has been aggressively advertised with the artist's name, and promoted through word of mouth across the local and national art world and many NY City and outside institutions associated with Public Art commissions. Therefore,

(1) whatever inferior product is produced will be mistaken, by many, as her work;

(2) professional bodies associated with public art commissions in New York and across the country will have the libelous notion that I was terminated for non-performance which could have disastrous consequences for future public and private art commissions; and

(3) her reputation with other artists, curators, gallerists, architects, designers, fabricators, etc. etc. may be compromised as well by the notion that she was terminated for non-performance (Losses? Again, difficult to measure, but very real.)

2. Lost Income.

(A) Lost income through design phase 2 of the project (est @ 6 elevation dwgs @\$1,000 each and 1 maquette@ \$3,000 each/for each of 30 figures) (up to \$270,000).

(B) Income through fabrication oversight est @ 16 weeks @ \$75/hr. (\$48,000).

(C) Income through long-term maintenance consulting over an estimated 30 year period (\$30,000?).

(D) Broughel lost approximately 3 years of her time in not pursuing other paid commissions, residencies, grants, teaching opportunities and the production of new works for sale, which are her bread and butter, but would have conflicted with the requirements of the project. At this point in her career, she is an attractive candidate for commissions, grants, residencies, etc, and since termination she has begun the production of new work,

and the pursuit of other commissions and opportunities, but expect these will take a minimum of 12-15 months to bear fruit. Est $\$45,000 \times 4 = (\$180,000)$.

(E) This project has physically co-opted the lion's share of her studio facilities for over three years, at a monthly cost of approximately \$2,500/month.

(F) Because Defendants claim copyrights on Broughel's work will not be honored, any revenue generated through chachkas and souvenirs (which Broughel knows Battery Park intends to market) will be lost.

3. Loss to be proved at trial for 3 years of a toxic work environment, endless undermining, legal shenanigans, being constantly threatened and severe emotional distress caused by Defendants.

Dated: New York, New York
December 3, 2007

Respectfully submitted,

By: _____
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Attorney for Plaintiff Barbara Broughel